or provocation, they might assess punitive damages against the defendant. The jury returned a verdict including punitive damages, and the defendant appealed from the judgment rendered thereon. *Held*, that the judgment be affirmed. *Kennelly* v. *Kansas City Rys. Co.*, 214 S. W. 237 (Mo.).

Theoretically, a rule allowing punitive damages in civil cases is objectionable, since the purpose of the civil law is to compensate for injury, not to punish the wrongdoer. See 1 SEDGWICK, DAMAGES, 9 ed., § 353; H. E. Willis, "Measure of Damages when Property is Wrongfully taken by a Private Individual," 22 HARV. L. REV. 419, 420. But the doctrine is established by the weight of authority. *Stalker* v. *Drake*, 91 Kan. 142, 136 Pac. 912; *Yazoo & M. V. R. Co.* v. *May*, 104 Miss. 422, 61 So. 449. *Contra*, *Longfellow* v. *Seattle*, 76 Wash. 509, 136 Pac. 855. Whatever may be said in favor of the rule in general, there can be no justification for allowing punitive damages against a principal who is liable only on *respondeat superior*. When the principal is a natural person, the weight of authority is to this effect. *Gaertner* v. *Bues*, 109 Wis. 165, 85 N. W. 388; *Lake Shore Ry. Co.* v. *Prentice*, 147 U. S. 101. *Contra*, *Boyer* v. *Coxen*, 92 Md. 366, 48 Atl. 161. The result should be the same though the principal is a corporation. *Peterson* v. *Middlesex Traction Co.*, 71 N. J. L. 296, 59 Atl. 456; *Voves* v. *Great Northern Ry. Co.*, 26 N. D. 110, 143 N. W. 760. But the doctrine of the principal case, imposing punitive damages on a corporation principal liable only on *respondeat superior*, has support in decisions of other states. *Goddard* v. *Grand Trunk Ry.*, 57 Me. 202; *So. Express Co.* v. *Brown*, 67 Miss. 260, 7 So. 318. It is argued that otherwise a corporation would never be subject to punitive damages, since it can act only through agents. See *Pullman Palace Car Co.* v. *Lawrence*, 74 Miss. 782, 22 So. 53. But unless the corporation directed or ratified the misconduct, or was negligent in selecting its agents, it could not possibly be said to deserve punishment. The decisions therefore seem unsound, even in a state permitting punitive damages generally.

DIVORCE — CRUELTY — ABUSE BY MOTHER-IN-LAW. — A husband was financially unable to furnish his bride with any other home than that belonging to his widowed mother with whom he lived. He always treated his wife kindly, but his mother abused her severely. The wife returned to her parents and filed a petition for divorce on the ground of cruelty. *Held*, that the divorce be granted. *Thompson* v. *Thompson*, 171 N. W. 347 (Mich.).

Where a husband acquiesces in the mistreatment of his wife by third persons, he is chargeable with their cruelty. *Snyder* v. *Snyder*, 98 Misc. 431, 162 N. Y. Supp. 607; *Sayles* v. *Sayles*, 103 Atl. 225 (R. I.). Or where he arbitrarily refuses to provide a home away from such persons. *Dakin* v. *Dakin*, 1 Neb. Unof. 457, 95 N. W. 781; *Hall* v. *Hall*, 9 Ore. 452. The principal case extends the imputation of cruelty to a husband without fault. The wife was undoubtedly justified in separating herself from the household where she was mistreated. *Marshak* v. *Marshak*, 115 Ark. 51, 170 S. W. 567; *Hall* v. *Hall*, 69 W. Va. 175, 71 S. E. 103. And the husband would be chargeable with desertion at the end of the statutory period if by his own fault he failed to provide a separate home. *Curlett* v. *Curlett*, 106 Ill. App. 81. But not if his inability continued without his fault. *Skean* v. *Skean*, 33 N. J. Eq. 148. In the principal case, the wife's grievance narrows down to the non-culpable inability of the husband to furnish her a proper home. It would seem that the court should have gone no further than to decree legal separation, in the absence of a statute making nonsupport a ground for absolute divorce.

EQUITABLE SERVITUDES — STATUTE OF FRAUDS — REPRESENTATION OF FUTURE CONDUCT AS BASIS OF ESTOPPEL. — The defendant sold the plaintiff a lot near the ocean, retaining the intervening land, and orally promising to build nothing except a boardwalk upon it. The plaintiff, relying upon the

defendant's promise, built a house. The defendant being about to sell the land in front of the plaintiff's house, free of restrictions, the plaintiff sought an injunction. *Held*, injunction granted. *Phillips* v. *West Rockaway Land Co.*, 124 N. E. 87 (N. Y. Ct. of App.).

It has been held that, because an equitable servitude is a property right, the servient land cannot be condemned without compensation to the dominant tenant. *Flynn* v. *N. Y. W. & B. Ry. Co.*, 218 N. Y. 140, 112 N. E. 913. By the same reasoning, the better view is that equitable servitudes are within the Statute of Frauds. *Wolfe* v. *Frost*, 4 Sandf. Ch. (N. Y.) 72; *Pitkin* v. *Long Island Ry. Co.*, 2 Barb. Ch. (N. Y.) 221; *Rice* v. *Roberts*, 24 Wis. 461. *Contra*, *Hall* v. *Solomon*, 61 Conn. 476, 23 Atl. 876. The court does not consider this question, apparently confusing the creation of equitable servitudes with the creation of quasi-easements, which do not come within the purpose of the Statute. For estoppel, upon which doctrine the court rests its decision, the representation must be as to an existing fact, not merely as to future action. *Maddison* v. *Alderson*, L. R. 8 A. C. 467; *White* v. *Ashton*, 51 N. Y. 280. The case seems erroneous in principle and inconsistent with two lines of decisions of the same court.

EVIDENCE — ADMISSIONS — CONDUCTOR'S REPORT OF ACCIDENTS. — To prove defendant's negligence, the plaintiff introduced in evidence, over defendant's objection, the report of the accident, submitted to the defendant by its conductor. *Held*, error, but not prejudicial. *Bell* v. *Milwaukee Electric Ry. & Light Co.*, 172 N. W. 791 (Wis.).

When the reports can be regarded as being obtained with a view to the particular litigation, they are held to be privileged. *Cossey & Wife* v. *London, Brighton & South Coast Railway Company*, L. R. 5 C. P. 146. But this requisite, precedent to such privilege, is not present in the facts of the principal case. *Mahoney* v. *National Widows Life Assurance Fund, Ltd.*, L. R. 6 C. P. 252; *Woolley* v. *North London Railway Company*, L. R. 4 C. P. 602; *In re Bradley*, 71 N. H. 54, 51 Atl. 264. However, such reports are plainly hearsay. Some courts have admitted an agent's statements in evidence when the time and manner of their utterance bring them within the somewhat loosely defined doctrines of *res gestae*. *Peto* v. *Hague*, 5 Esp. 134; *Keyser* v. *Chicago & G. T. Ry. Co.*, 66 Mich. 390, 33 N. W. 867. Conversely, courts have excluded them when they cannot be brought within those doctrines. *Carroll* v. *East Tennessee, V. & G. Ry. Co.*, 82 Ga. 452, 10 S. E. 163. But, in the principal case, the report was prepared some time after the event and is clearly not part of the *res gestae* within the cases cited. An agent's report is sometimes rejected on the theory that an agent's statements cannot be a principal's admissions. *Atchison, T. & S. F. Ry. Co.* v. *Burks*, 78 Kan. 515, 96 Pac. 950. But the distinct weight of authority is against this view, and makes the criterion, whether the agent has acted within the scope of his authority. *Meyer et al.* v. *Great Western Ins. Co.*, 104 Cal. 381, 38 Pac. 82; *Patterson* v. *United Artisans*, 43 Ore. 333, 72 Pac. 1095; *Hildebrand* v. *United Artisans*, 50 Ore. 159, 91 Pac. 542. See 2 WIGMORE, EVIDENCE, § 1078. Usually conductors are required to report to the company circumstances of accidents. *A fortiori*, they are authorized to do so. And it should have no effect on the admissibility of the report as an admission that the conductor based it, in whole or in part, on what bystanders told him.

FEDERAL COURTS — JURISDICTION BASED ON NATURE OF SUBJECT MATTER — REVIEW OF DECISIONS OF STATE COURTS INVOLVING FEDERAL QUESTIONS, UNDER JUDICIAL CODE, § 237, AMENDED. — The procedure by which state court decisions involving a federal question may be reviewed by the United States Supreme Court, and the jurisdiction of that court to review such decisions, has been changed by amendments to the Judicial Code, § 237, in 1914 and 1916.